



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

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09-17-07
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Order Instituting Rulemaking to Promote Policy)	
and Program Coordination and Integration in)	
Electric Utility Resource Planning.)	Rulemaking 04-04-003
)	(Filed April 1, 2004)
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Consistency in Methodology and Input)	
Assumptions in Commission Applications of)	Rulemaking 04-04-025
Short-run and Long-run Avoided Costs, Including)	(Filed April 22, 2004)
Pricing for Qualifying Facilities.)	

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)
REPLY COMMENTS ON ALTERNATE PROPOSED DECISION OF
COMMISSIONER GRUENEICH

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Dated: **September 17, 2007**

**Southern California Edison Company's (U 338-E)
Reply Comments on Alternate Proposed Decision of Commissioner Grueneich**

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REPLY COMMENTS ON ALTERNATE PROPOSED DECISION OF
COMMISSIONER GRUENEICH

Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, Southern California Edison Company (SCE) respectfully submits these reply comments on the Alternate Proposed Decision of Commissioner Grueneich issued on August 20, 2007 (Alternate).

I.

THE QF PARTIES’ ATTEMPTS TO INFLATE ENERGY PAYMENTS
SHOULD BE REJECTED

The Alternate calculates short-run avoided cost energy payments using a formula that blends an incremental energy rate (IER) value that is 12 years old with a 24-month rolling average of “forward market prices for NP15 (for PG&E) or SP15 (for SCE and SDG&E).”¹ As SCE previously explained, SCE’s 1995 IER of 9,140 Btu/kWh bears no relationship to today’s electricity market. Indeed, the Commission itself has stated that “*It would be unreasonable to believe that this interim formula would still accurately reflect current utility avoided costs.*”²

CCC and the County of Los Angeles seek to further inflate energy payments by increasing the historical component of the formula to 9,705 Btu/kWh or 9,821 Btu/kWh.³ CCC

¹ Alternate at 66.

² D.02-02-028 at 12 (*emphasis added*).

³ See CCC Opening Comments at 7-10; County of Los Angeles Opening Comments at 4.

seeks to further inflate energy payments by increasing the weighting of the historical component to at least two-thirds.⁴ None of these values have support in the record. Moreover, as SCE explained in its Opening Comments, the Alternate already generates all-in prices that are higher than any of the pricing methodologies proposed by any party in this proceeding. The changes proposed by CCC and the County will merely amplify the errors contained the Alternate and yield prices that further exceed SCE's avoided cost. These changes should be rejected.

II.

THE QF PARTIES' ATTEMPTS TO INFLATE THE FIRM AND "AS-AVAILABLE" CAPACITY PRICES SHOULD BE REJECTED

The Alternate adopts a firm capacity price of \$135.97/kW-yr based on the \$156.97/kW-yr capacity price used for the 2006 market price referent (MPR), less \$21.00/kW-yr of "savings gained from running in the energy market (inframarginal rents)."⁵ As SCE explained in its Opening Comments, the \$135.97/kW-yr capacity price significantly exceeds SCE's avoided cost because it fails to deduct an adequate amount for savings gained from running in the energy market and fails to adjust for the residual value of the MPR proxy unit as a result of having an operating life greater than 20 years.

CCC and CalWEA seek to further inflate the firm capacity price by using the "updated" \$175.63/kW-year capacity price of the yet-to-be-adopted 2007 MPR.⁶ CCC and CalWEA's request to *selectively* update only one component of the firm capacity price will yield prices that further exceed SCE's avoided cost and should be rejected. An updated firm capacity price must also update the savings gained from running the MPR proxy unit in the energy market, which could be on the order of \$70/kW-year, and the residual value of the MPR proxy unit, which could be approximately \$25/kW-year. These deductions would reduce the \$175.63/kW-year MPR capacity price to \$80.63/kW-year, far less than the \$155/kW-year proposed by CCC.

CCC, CalWEA and CAC/EPUC also seek to inflate the \$32.53/kW-year "as-available" capacity price adopted in the Alternate. CCC and CalWEA seek to "update" this value based on "[i]mportant developments" that have occurred since the record in this proceeding was

⁴ See CCC Opening Comments at 6.

⁵ Alternate at 97.

⁶ See CCC Opening Comments at 15; see also CalWEA Opening Comments, Section II.E.

submitted.⁷ However, CCC and CalWEA, again, improperly request to increase the capital cost without updating the deductions for energy savings and ancillary services revenues. Further, the \$96.37/kW-year capital cost used by CCC is not part of the record in this proceeding. In fact, CCC previously claimed a different value for the capital cost of the RAMCO project.⁸

Finally, CAC/EPUC argue that the “as-available” capacity value should not be reduced by ancillary service revenues.⁹ CAC/EPUC erroneously assume that the \$64.13/kW-year figure in the Alternate represents “the full value of as-available capacity” and “a reservation fee.”¹⁰ In fact, the \$64.13/kW-year is not a capacity value; it is the fixed cost of a combustion turbine, which must be reduced by the amount of ancillary service revenues to avoid overpaying for capacity.¹¹ Even CCC witness Beach agreed that there should be a deduction for ancillary service revenues.¹² Therefore, CCC, CalWEA and CAC/EPUC’s arguments should be rejected.

III.

CAC/EPUC’S ERRONEOUS INTERPRETATION OF EPACT 2005 SHOULD BE REJECTED

CAC/EPUC invite the Commission to commit legal error by claiming that the Commission should find that the opening of this proceeding created a “legally enforceable obligation” under Section 210(m) of PURPA. CAC/EPUC selectively quote portions of FERC’s orders regarding Section 210(m) to argue that any state PURPA proceeding pending on August 8, 2005, the date of enactment of the EPAct 2005, created a legally enforceable obligation. FERC Order 688-A specifically rejects this overly broad and nonsensical interpretation.

Under FERC Order 688-A, a legally enforceable obligation is created only when a specific QF petitions a state commission to order a utility to enter into a specific contract with that QF.¹³ CAC/EPUC’s interpretation would create legally enforceable obligation even before a QF requests a contract from a utility. Indeed, CAC/EPUC’s interpretation would grant a perpetual right to a standard offer contract to QFs that do not even exist yet and would preclude

⁷ CCC Opening Comments at 13-15; *see also* CalWEA Opening Comments, Section II.B.

⁸ *See* CCC Opening Testimony, Ex. 102 at 51-52.

⁹ *See* CAC/EPUC Opening Comments at 13-14.

¹⁰ *Id.*

¹¹ *See* SCE Comments on Proposed Decision of ALJ Halligan at 9-12; Ex. 48 at 2-29–2-30 (California Independent System Operator 2004 Annual Report on Market Issues and Performance).

¹² CCC Rebuttal Testimony, Ex. 103 at 43:19-21; *see also* Proposed Decision at 88.

SCE from *ever* obtaining relief from the PURPA purchase obligation. Such an absurd result is clearly inconsistent with the language and intent of Section 210(m).

The complaint procedure described in the Alternate provides that certain “[n]ew QFs . . . may seek a contract under the Prospective QF Program and may file a complaint if the IOU does not enter into the contract.”¹⁴ This procedure is consistent with the language in FERC’s orders that provides that the filing of a complaint creates a legally enforceable obligation (assuming the complaint is granted).¹⁵ “When a utility refuses to enter into a contract with a QF, and the QF seeks state regulatory authority assistance to enforce its PURPA regulations, a non-contractual but still legally enforceable obligation may be created pursuant to the state’s implementation of PURPA.”¹⁶ The Commission should reject CAC/EPUC’s proposed language and apply the complaint procedure in the Alternate to all QFs seeking standard offer contracts.

IV.

CAC/EPUC’S STANDARD OFFER CONTRACT AND IMPLEMENTATION PROCEDURE ARE UNREASONABLE AND SHOULD BE REJECTED

CAC/EPUC’s comments attached a proposed standard offer contract that is purportedly “adopted from” the Mountainview agreement.¹⁷ This is a sham. CAC/EPUC retained only those terms of the Mountainview contract that they considered favorable and substituted new language where it is advantageous to QFs. This one-sided contract will severely disadvantage ratepayers.

For example, the Mountainview contract gives SCE the right to dispatch the facility for the benefit of SCE’s customers. CAC/EPUC modified these terms to allow the QF to unilaterally select its own dispatch and, indeed, to impose take-or-pay obligations on SCE wherein SCE is obligated to pay for Net Electrical Output whether or not it is able to accept delivery, with no excusal for factors outside SCE control, such as transmission limitations or outages. Indeed, the CAC/EPUC’s contract goes so far as to pay the QF for fuel that it did not use. Further, CAC/EPUC uses a 95% summer/90% winter availability standard, which is lower than the 97% summer/92% winter standard that the Commission adopted for Mountainview.

Continued from the previous page

¹³ See FERC Order 688-A at ¶¶ 128, 136-139.

¹⁴ Alternate at Table 1; *see also id.* at 121, 146.

¹⁵ This procedure should, however, be applied to all QFs seeking standard offer contracts, not only to new QFs greater than 25 MW.

¹⁶ FERC Order 688-A at ¶ 136.

¹⁷ See CAC/EPUC Opening Comments at 4-5.

CAC/EPUC also added a definition of “unit-contingent” to its contract that is not in the Mountainview contract. This definition is highly prejudicial to ratepayers because it absolves the QF of any responsibility to deliver capacity: “‘Unit-Contingent’ means that the delivery and supply of capacity and energy to Buyer from Seller is contingent on Seller’s Generating Facility operating *and Seller has no other obligations to Buyer to replace or compensate Buyer in the event the Generating Facility output is reduced.*” In contrast, section 13.01 of the Mountainview contract obligates the seller to take appropriate action to remedy a failure to deliver. CAC/EPUC’s definition is particularly objectionable because CAC/EPUC’s Schedule 3.01 bases the fixed monthly payments on contract capacity as specified in the contract, not on delivered capacity. In contrast, the Mountainview contract defines contract capacity based on annual testing of Net Electrical Output.

As CAC/EPUC is well-aware, it is not possible to fully comment on this standard offer contract in this reply. Assuming the Commission’s decision adopts standard offer contracts, the Alternate’s procedure for implementing such contracts should be maintained to provide parties with a full and fair opportunity to be heard with respect to the terms and conditions of any standard offer contracts that are adopted. Furthermore, it is inappropriate to assume at this time that any disputes as to contract terms can be resolved by Assigned Commissioner’s ruling.

Respectfully submitted,

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September 17, 2007

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) REPLY COMMENTS ON ALTERNATE PROPOSED DECISION OF COMMISSIONER GRUENEICH on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **17th day of September, 2007**, at Rosemead, California.

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